

**Testimony of Robert Baugh
Executive Director
Industrial Union Council of the
American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)**

**Before the Subcommittee on Africa, Global Human Rights and International Operations
of the U.S. House of Representatives Committee on International Relations**

**"African Growth and Opportunity Act (AGOA): A Five Year Assessment"
October 20, 2005**

Mr. Chairman, members of the Subcommittee, thank you for this opportunity to present the AFL-CIO's perspective on the African Growth and Opportunity Act, five years after the program was signed into law. We recognize the urgency and the severity of the challenges faced in many sub-Saharan African countries and have worked closely with our trade union brothers and sisters in Africa to address the intractable poverty, human rights abuses, corruption, and the scourge of HIV/AIDS that they face daily.

Unfortunately, in our view, AGOA has failed to deliver on its promises and potential. While exports from Africa have grown sharply under AGOA, this increased trade has failed to translate into robust growth, decent jobs, and sustainable development for the region. Meanwhile, widespread unemployment, high poverty rates, low wages, and violations of workers' rights continue to plague the region. And data on apparel trade from 2005 show that the concerns we have expressed about the likely impact of phasing out textile and apparel quotas were well grounded. (According to a recently released ILO report, Africa has been one of the big losers in the wake of the quota phaseout: textile and apparel exports to the United States under AGOA fell by 25% in the first three months of 2005 compared to the previous year.)

As the International Confederation of Trade Unions (ICFTU) reported in its annual trade union rights report this week:

Already crippled by the burden of poverty and underdevelopment, the African continent carries the added weight of trade union repression. Whilst Africa's workers struggle to scrape a living wage from jobs that generally offer no social protection, the powers that be remain brutal in their oppression of trade union rights, responding to attempts to improve conditions with violent intimidation, arrests and dismissals. Collective bargaining continues to be very limited on the continent and the export processing zones developing in the wake of globalisation are simply inflating the scale of exploitation (ICFTU Annual Survey of Trade Union Rights Violations, 10/18/05).

Why hasn't AGOA delivered on its promise? There are three basic reasons:

- 1) AGOA failed to address the underlying impediments to development in the region, particularly countries' unsustainable debt burdens.

- 2) AGOA's conditionality creates strong new investor rights but provides only minimal protections for workers' rights, exacerbating unequal bargaining power and speeding up the race to the bottom.
- 3) AGOA cannot compensate for the threat posed to African producers by the phase-out of global textile and apparel quotas earlier this year. When quotas were eliminated, AGOA countries lost major market share and many export jobs to China.

1) Debt in Africa

With mounting unsustainable debt burdens and low revenue, many African countries are unable to invest in infrastructure and basic human services like health care and education that are vital for development. External debt burdens stand at more than 50 percent of GDP in sub-Saharan Africa. In Africa as a whole, fourteen cents of every dollar earned on exports goes to debt service payments. Even with growing exports and enhanced international debt relief, Africa's debt burden has continued to grow since AGOA's implementation, and it hit \$275.5 billion in 2001. Unfortunately, AGOA has done little to help find solutions to Africa's debt crisis. As long as governments in the region are forced to send billions of dollars to international creditors each year instead of investing those resources in health care, education, and infrastructure, lasting development in the region will be extremely difficult to achieve.

2) A Failed Development Model

Workers' Rights Need to Be Strengthened

AGOA contains conditions protecting investor rights and intellectual property rights that are very similar to conditions that developing countries have refused to add to the agenda of the World Trade Organization and have balked at in bilateral trade negotiations. These conditions further strengthen the bargaining power of transnational corporations investing in Africa, and reduce the scope for public policies designed to help capture some of the benefits of those investments for local economic development. As a result, investors in the region enjoy extremely favorable access – tax holidays, subsidized provision of services like electricity and water, and lax government regulation – while contributing very little to the domestic economy in terms of decent employment, linkages to local small and medium enterprises, and investments in the community.

Thus, while exports are booming, profits are being captured by the very few, and often by transnational companies with few domestic linkages. This perverse model of development perhaps explains some of the disjuncture between the soaring exports under AGOA and disappointing growth in the region overall. Workers are unable to capture their fair share of the wealth they create through rising wages; African businesses are denied contracts in favor of third-country suppliers; and local governments forego tax revenue in order to attract scarce investment. By eroding governments' bargaining power with foreign investors, and failing to build the bargaining power of workers, AGOA has exacerbated an imbalance that allows

investors to pit governments against governments, and workers against workers, in a race to the bottom in regulatory standards and working conditions.

While AGOA does contain conditions on workers' rights, these have not been strong enough to ensure that workers' fundamental human rights are actually respected in the region. Lesotho is the third largest AGOA exporter, and its shipments under AGOA have more than doubled since 2001. But, according to an investigation by UNITE researchers (the clothing and textile union), some workers in Lesotho making apparel earn only about 30 cents an hour, less than half of the basic wage needed to support a family of four. Many workers are so desperate to make ends meet that they are forced to borrow money at usurious rates, sometimes from their own supervisors. Workers are subjected to verbal and physical abuse and forced to work unpaid overtime. Though many workers are fighting to unionize their factories, and unions have majority support at some facilities, management refuses to recognize legitimate union representation, and the government does little to hold employers accountable. In addition, the U.S. State Department reports that blacklists are commonly used by employers in the textile and apparel sector.

Violations of workers' rights are not isolated to Lesotho. In Nigeria, all unions must affiliate with the one legally mandated labor federation sanctioned by the government. In Kenya, free trade zone employers are specifically exempted from health and safety laws. In Cameroon, there were reports of trade union leader harassment and failure by the government to enforce existing labor laws.

Ramatex in Namibia

Many of the problems of AGOA are illustrated by the experience of workers at Ramatex in Namibia. Ramatex, which employs 7,500 workers, is the most important foreign investment in Namibia since independence. The government provided a \$N 120 million subsidy to Ramatex, a company based in Malaysia, to locate production in Namibia. According to a comprehensive report on Ramatex by the Namibian-based Labour Resource and Research Institute (LRRI):

The financial support that Ramatex received from the Namibian government is equivalent to the salaries of all workers for 34 months – almost 3 years. A huge investment by any standard which can only be justified if Ramatex' operations in Namibia will lead to long-term sustainable jobs of decent quality.

According to the LRRI report, female workers are forced to take pregnancy tests (at their own expense), there have been several strikes because of low pay (approximately \$50 per month), and workers have serious health and safety concerns.

Workers at Ramatex report the following conditions:

We work the same hours every day. If you are tired you are told to go home and never to come back again. If you miss work on Saturday and Sunday, you are just told to go home or you get fired depending on the number of warnings. If you just miss work on Saturday and Sunday, the moment the Chinese supervisor see you he or she will only talk to the Filipino in the office, they will then tell you, 'go office, sign warning'.

I start at seven in the morning. We iron over a hundred items in an hour, and we stand the whole day. The standing is very painful, but there is nothing I can do because it is my work. I leave at 19h30 in the evening, whether it is a weekend or normal weekday. Sunday-to-Sunday. When I started I used to attend night classes but I don't get time anymore and I stopped going to classes, because I have no time

We dislike the wages and working on Saturdays and Sundays. We work very hard for this company filling those containers all the time within a few days. They benefit from us but we don't get anything in return.

The LRRI report concludes:

Ramatex workers experience the daily frustrations of not being able to make ends meet despite working 9 -11 hours every day! Unless this situation is redressed in the near future, Ramatex will essentially be contributing to the establishment of a large number of 'working poor' - people in full-time employment, unable to even meet their basic needs. This stands in sharp contrast to the Namibian government's stated objective of promoting decent work in line with ILO standards.

Swaziland

Perhaps the most striking example of AGOA's failure to protect workers' rights is in Swaziland. The AFL-CIO submitted workers' rights petitions on Swaziland in 1999, 2002, and 2005. Though the Administration accepted the 2005 petition, there has still not been any effective action taken to redress the violations detailed in the petition. The government of Swaziland is a monarchy that systematically represses trade union rights. Union leaders that helped organize a peaceful demonstration in 2001 were charged with contempt of court, had their passports withdrawn, and were barred from addressing public audiences. Trade unionists who seek to enforce their rights confront a judiciary whose autonomy and authority have been undermined by the King of Swaziland, and which is incapable of establishing rule of law. Decrees from the King have banned free speech and political dissent, further curtailing trade union activities. According to the U.S. State Department, the government continues to turn a blind eye to abuses of workers' rights by multinational employers. Despite these flagrant violations of workers' rights, Swaziland still enjoys its full AGOA benefits and has seen its exports to the U.S. under AGOA jump 143 percent between 2001 and 2004. The current GSP petition on Swaziland has been under review for several years now, with no effective action to ensure that AGOA conditions are being met.

The 2000 Industrial Relations Act (IRA) still does not comply with ILO core labor rights, as laid out in AGOA. These discrepancies with international standards include, but are not limited to, the following:

- Unions must represent at least 50 percent of workers to ensure recognition;

- The procedure for obtaining official approval of a strike is long and complex. Legal strikes are virtually impossible because the law requires a period of 74 days between the announcement of a strike and the strike itself;
- There is no effective protection for trade unions against employer interference.

The Government of Swaziland announced in 2004 that it was introducing new labor legislation. The new labor law remains essentially the same as the previous Act, including both the 74-day notice for strikes and the 50% threshold for union recognition.

There has been some success at some of the factories meeting the high threshold for union recognition. However, violations remain. The Matsapha Knitwear factory continues to deny union recognition to the textile union SMAWU. Violations of fundamental trade union rights have continued in textile factories, including surveillance of trade union activists by hired security staff, bans on workers meeting during breaks, and physical assault by security guards.

Uganda

The ILO Committee of Experts and Committee on Freedom of Association, the U.S. State Department and trade union activists have repeatedly criticized labor law in Uganda. Onerous restrictions on workers' rights in Ugandan law were enacted as part of the Trade Union Decree of 1976. These provisions severely curtail the ability of workers to form and join unions, bargain with their employers, and exercise the right to strike. Ugandan labor law fails to meet minimum standards on freedom of association and the right to organize and bargain collectively as defined by the ILO.

Two requirements for forming a trade union are that the workforce represented must have 1,000 employees and the union must represent 51 per cent of the workforce. Workers in the private sector are prevented from forming unions because of these requirements. The ILO Committee of Experts in 2004 commented again that the provisions do not promote collective bargaining and where a union did not cover more than 50% of the workforce, collective bargaining rights should be granted to all unions in the unit, at least on behalf of their members.

The U.S. State Department and the ICFTU have both decried the refusal to effectively enforce workers' rights in Uganda. The State Department notes that, in 2004, the government of Uganda "failed to enforce the rights of some employees to join unions in newly privatized industries and factories," "the right to organize was rarely defended by the Government," and "the Government seldom defended" the right to strike.

- The Ministry of Labor fails to enforce uniform legal interpretations protecting workers' rights throughout its agencies. Though the Ministry has stated that restrictive provisions of the Trade Union Decree of 1976 are unconstitutional and thus invalid, the Ministry's own Registrar of Trade Unions has cited those very provisions to deny registration to legitimate trade unions.

- The Industrial Court (IC) is responsible for hearing labor disputes, yet, according to the State Department, it “lacked funds and rarely convened,” thus depriving workers of effective recourse when their legal rights are violated.
- The Ministry of Gender, Labor, and Social Development generally refuses to allow a legal strike unless the IC – which is often not in session – finds that onerous legal requirements have been met first.

Conclusion

The AFL-CIO is not opposed to preferential trade access for African countries. But this should not be done at the expense of workers in America or in Africa. Market access should be linked to effective and enforceable adherence to internationally recognized labor rights. U.S. policy toward Africa should be judged by its effect on the lives of ordinary people. Broad-based development requires that workers have internationally recognized human rights, improvements in physical infrastructure, production of basic commodities for national, regional and international markets; promotion of locally owned enterprises; and sufficient government control to balance private capital needs with broader societal needs. AGOA regrettable has fallen short in all these areas.